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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/658,976

09/10/2003

Alfred Thomas

47079-0227

3979

30223 7590 04/24/2007  
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EXAMINER

HOTALING, JOHN M

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

04/24/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/658,976

Applicant(s)

THOMAS, ALFRED

Examiner

John M. Hotaling II

Art Unit

3714

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 09 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-25.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed 3/09/2007 have been fully considered but they are not persuasive. Examiner Sprigg has left the office and Examiner Hotaling has been assigned this application.

Applicant argues that Wolf483 does not disclose "if and only if the dealt hand has one of the award-winning ranking" a distinguishing step occurs. Applicant also argues that Wolf483 teaches away from providing a distinguishing step. Examiner respectfully disagrees. Applicant is referred to the above explanation provided on Wolf483 and what it discloses. In short, Applicant has misinterpreted the intention of Wolf483 and what it discloses both explicitly and implicitly. Namely, Wolf483 discloses a method and system for programming auto-hold strategies in a gaming device and makes it apparent that a number of gaming strategies can be programmed through the method and system. Through further evidence it is apparent that the method and system of Wolf483 include a strategy wherein only hands with winning combinations or rankings are distinguished. The fact that Wolf483 appears to disclose other strategies in detail does not mean that the strategy claimed in the present application, which includes "if and only if the dealt hand has one of the award-winning rankings, is excluded or taught away from. Applicant is mistaken in construing explicit disclosure as teaching away that which is implicit to the reference. Thus it is clear that Applicant's claimed invention can be and is taught by Wolf483.

Furthermore, Applicant may argue that Wolf483 contains more structure in allowing multiple strategies to be programmed in determining when to distinguish winning cards in a hand. However, Wolf483 discloses the invention as claimed. The fact that it discloses additional structure not claimed, such as programming other strategies, is irrelevant.

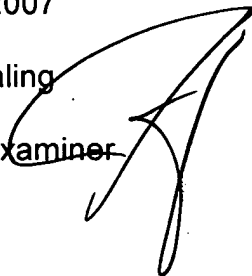
With respect the argument that "the auto-hold feature tends to annoy players. If a player disagrees with the automatically held cards the player must unhold those cards and then hold the cards the player wishes to hold." Please see paragraph 31, 33 and throughout the reference of Wolf it is disclosed that the gaming device can determine the mathematically optimal or best reels to hold, display this suggestion 33 to the player and in some embodiments automatically hold those reels for the player. This is a clear teaching that the display part is not an automatic hold and therefore would not inconvenience the player to perform an additional step of unholding cards.

With respect to the arguments relative to paragraphs 50 and 52 wolf discloses a method for creating hold codes for the best expected value for each game situation. Paragraph 53-60 states that hold code 00000 can also be calculated and used to display a suggestion or no suggestion based on hold strategies, and "it should be appreciated that different methods of creating an auto-hold table for different hold strategies can also be used. In view of the aforementioned the finality of the office action is maintained.

April 22, 2007

John Hotaling

Primary Examiner

A handwritten signature in black ink, appearing to be 'John Hotaling', written over the printed name and title.